



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:)	Before the Examiner
Thomas Zdeblick et al.)	Julian W. Woo
)	
Application Serial No. 10/644,252)	Group Art Unit 3731
)	
Filed August 20, 2003)	Ref. No. PC242.38/
)	4002-3378
)	
INTERBODY FUSION DEVICE AND)	July 13, 2004
METHOD FOR RESTORATION OF)	
NORMAL SPINAL ANATOMY)	

TERMINAL DISCLAIMER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

Petitioner, SDGI Holdings, Inc., having a place of business at 300 Delaware Avenue, Suite 508, Wilmington, Delaware 19801, is the owner of one hundred percent (100%) interest in the instant application, U.S. Patent Application Serial No. 10/644,252, filed on August 20, 2003 for an INTERBODY FUSION DEVICE AND METHOD FOR RESTORATION OF NORMAL SPINAL ANATOMY, as evidenced by the following documents: Assignment from Thomas Zdeblick to Danek Medical, Inc., recorded at Reel 7468, Frame 0849; Assignment from Eddie Ray, III and Lawrence M. Boyd to Danek Medical, Inc., recorded at Reel 7468, Frame 0855; and Assignment from Danek Medical, Inc. to SDGI Holdings, Inc., recorded at Reel 8811, Frame 0663. Petitioner has reviewed the evidentiary documents and certifies that, to the best of Petitioner's knowledge and belief, title to the application is in the Petitioner.

Petitioner hereby disclaims the terminal part of the statutory term of any patent granted on the instant application that would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154-156 and 173 of U.S. Patent No. 6,645,206, filed

on March 3, 2000 for an INTERBODY FUSION DEVICE AND METHOD FOR RESTORATION OF NORMAL SPINAL ANATOMY. Petitioner agrees that a patent so granted on the instant application shall be enforceable only for and during such period that it and U.S. Patent No. 6,645,206 are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154-156 and 173 of U.S. Patent No. 6,645,206 in the event that either of such patents: expires for failure to pay a maintenance fee; is held unenforceable; is found invalid by a court of competent jurisdiction; is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. §1.321; has all claims canceled by a reexamination certificate; is reissued; or is in any manner terminated prior to the expiration of its full statutory term.

The undersigned, Charles R. Reeves, is an attorney of record for both the instant application and the issued patent referenced above and is empowered and authorized to act on behalf of the Petitioner in making this Terminal Disclaimer.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: July 13, 2004

A handwritten signature in black ink, appearing to read "Charles R. Reeves", written over a horizontal line.

Charles R. Reeves
Reg. No. 28,750

JUL 16 2004

Doc. No. 292489 WEMMH/SB/17 (12/03)

Approved for use through 10/31/2002. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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FEE TRANSMITTAL FOR FY 2004

Effective 01/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

Total Amount of Payment (\$)**626.00**

Complete if Known

Application Number **10/644,252**
Filing Date **August 20, 2003**
First Named Inventor **Thomas Zdeblick et al.**
Group Art Unit **3731**
Examiner Name **Julian W. Woo**
Attorney Docket Number **4002-3378/PC242.38**

METHOD OF PAYMENT

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number **23-3030**

Deposit Account Name **Woodard, Emhardt, Moriarty, McNett & Henry LLP**

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments
☒ Charge any additional fee(s) during the pendency of this application, excluding the payment of issue fees
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
1001	770	2001	385	Utility Filing Fee	
1002	340	2002	170	Design Filing Fee	
1003	530	2003	265	Plant Filing Fee	
1004	770	2004	385	Reissue Filing Fee	
1005	160	2005	80	Provisional Filing Fee	
SUBTOTAL (1)					(\$) 0.00

2. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee From Below	Fee Paid
32	-32** = 0	X 18.00	= 0.00
Independent Claims	9	-3** = 6	X 86.00 = 516.00
Multiple Dependent			

Large Entity Fee Code	Small Entity Fee Code	Fee Description
1202	2202	Claims in excess of 20
1201	2201	Independent claims in excess of 3
1203	2203	Multiple dependent claim, if not paid
1204	2204	**Reissue independent claims over original patent
1205	2205	**Reissue claims in excess of 20 and over original patent
SUBTOTAL (2)		(\$) 516.00

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Small Entity Fee Code	Fee Description	Fee Paid
1051	2051	Surcharge - late filing fee or oath	
1052	2052	Surcharge - late provisional filing fee or cover sheet	
1053	1053	Non-English specification	
1812	1812	For filing a request for ex parte reexamination	
1804	1804	Requesting publication of SIR prior to Examiner's Action	
1805	1805	Requesting publication of SIR after Examiner's Action	
1251	2251	Extension for reply within first month	
1252	2252	Extension for reply within second month	
1253	2253	Extension for reply within third month	
1254	2254	Extension for reply within fourth month	
1255	2255	Extension for reply within fifth month	
1401	2401	Notice of Appeal	
1402	2402	Filing a brief in support of an appeal	
1403	2403	Request for oral hearing	
1451	1451	Petition to institute a public use proceeding	
1452	2452	Petition to revive - unavoidable	
1453	2453	Petition to revive - unintentional	
1501	2501	Utility issue fee (or reissue)	
1502	2502	Design issue fee	
1503	2503	Plant issue fee	
1460	1460	Petitions to the Commissioner	
1807	1807	Petitions related to provisional applications	
1806	1806	Submission of Information Disclosure Stmt	
8021	8021	Recording each patent assignment per property (times number of properties)	
1809	2809	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	2810	For each additional invention to be examined (37 CFR 1.129(b))	
1801	2801	Request for Continued Examination (RCE)	
1802	1802	Request for expedited examination of a design application	
110		Terminal Disclaimer	110.00
Other Fee (specify)			

* Reduced by Basic Filing Fee Paid SUBTOTAL (3) (\$)**110.00**

SUBMITTED BY

Name (Print/Type) **Brad A. Schepers** Registration No. **45,431** Telephone **(317) 634-3456**
Signature *Brad A. Schepers* Date **July 13, 2004**

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038. This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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